

BEST AVAILABLE COPY

the claimed Zcytor11 polynucleotides have a practical utility. The polynucleotides can be used to produce polypeptides, which can be used to produce antibodies, which can be used to produce enriched, homogenous populations of cells that express the receptor Zcytor11, in particular pancreatic cells using a fluorescence-activated cell sorter.

As evidence that the above-described utility is a real-world, practical utility, submitted with the present response is a Declaration under 37 C.F.R. §1.132 by Dr. Stephen R. Japers describing why the above described utility is a real-world, practical utility. His declaration together with all of the submitted Exhibits 1-9 show that one of ordinary skill in the art would be able to produce homogenous populations of cells expressing Zcytor11 using a fluorescence-activated cell sorter.

Exhibit 6 explicitly shows how important it is to have a homogenous population of cells to study the function of that particular cell. See page 156 of Exhibit 6, 5 lines down from the last paragraph, which states:

If the sample is a piece of tissue, fragments of all of its cells will be mixed together, creating confusion if the cells are of several types, which is almost always the case. In order to preserve as much information as possible about each individual type of cell, cell biologists have developed ways of dissociating cells from tissues and separating the various types. The resulting, relatively homogenous population of cells then can be analyzed – either directly or after their number has been greatly increased allowing them to proliferate in culture.

Thus, it is clear that the claimed invention has a real-world, practical utility, which is clearly enabled.

BEST AVAILABLE COPY

Submission of the Declaration under 37 C.F.R. §1.132

Applicants respectfully request that the submitted declaration be made of record. The declaration basically only restates arguments made in the amendment/response to the first office action. The issue is simple and straightforward and is ripe for appeal.

Based upon the above, applicants respectfully request that the rejection of the claims under 35 U.S.C. §101/112 be withdrawn and the claims allowed.

Respectfully submitted,



Paul G. Lunn, Esq.

Reg. No: 32,743

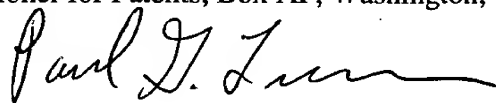
(206) 442-6627

CERTIFICATE OF MAILING [37 CFR 1.8(a)]

I hereby certify that this correspondence and all items mentioned herein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Box AF, Washington, DC 20231.

November 8, 2001

Date



Signature

Paul G. Lunn

Typed name of person signing Certificate